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Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

LESLIE L. KELLEY a.k.a.
LESLIE L. GERTHOFFER a.k.a.
LESLIE G. LA BAR GERTHOFFER a.k.a.
LESLIE G. LA BAR
257 Fir Tree Place
Goleta, CA 93117

Registered Nursing License No. 345176

Respondent.

Case No. 2009-205

ACCUSATION

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N., Executive Officer (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.

2. On or about June 30, 1982, the Board issued Registered Nursing License No. 345176 to Leslie L. Kelley a.k.a. Leslie L. Gerthoffer a.k.a. Leslie G. La Bar Gerthoffer a.k.a. Leslie G. La Bar ("Respondent"). Effective August 24, 2001, Respondent's Registered Nurse License was revoked, revocation stayed, and the license placed on probation for a period of three (3) years with certain terms and conditions, pursuant to the Board's decision in a

1 disciplinary action entitled "In the Matter of Accusation Against Leslie L. Gerthoffer, etc., case
2 number 2001-165. A copy of that decision is attached hereto as **Exhibit A** and is incorporated by
3 reference. The Registered Nursing License was in full force and effect at all times relevant to the
4 charges brought herein and will expire on January 31, 2010 unless renewed.

5 **JURISDICTION**

6 3. This Accusation is brought before the Board under the authority of the
7 following laws. All section references are to the Business and Professions Code unless otherwise
8 indicated.

9 **STATUTORY PROVISIONS**

10 4. Section 490 of the Code states:

11 "A board may suspend or revoke a license on the ground that the licensee has
12 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
13 duties of the business or profession for which the license was issued. A conviction within the
14 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
15 contendere. Any action which a board is permitted to take following the establishment of a
16 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
17 been affirmed on appeal, or when an order granting probation is made suspending the imposition
18 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
19 Penal Code."

20 5. Section 2750 of the Business and Professions Code (Code) provides, in
21 pertinent part, that the Board may discipline any licensee, including a licensee holding a
22 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
23 2750) of the Nursing Practice Act.

24 6. Section 2761 of the Code states:

25 "The board may take disciplinary action against a certified or licensed nurse or
26 deny an application for a certificate or license for any of the following:

27 "(a) Unprofessional conduct, which includes, but is not limited to, the
28 following:

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“(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.”

7. Section 2762 of the Code states, in pertinent part:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing in Section 1100) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

....

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

....

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (1) of this section, in which event the record of the conviction is conclusive evidence thereof.

8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding

1 against the licensee or to render a decision imposing discipline on the license. Under section
2 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
3 the expiration.

4 9. Health and Safety Code Section §11173, provides at subdivision “a” as
5 follows:

6 “(a) No person shall obtain or attempt to obtain controlled substances, or procure
7 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
8 deceit, misrepresentation, or subterfuge; or (2) the concealment of a material fact.

9 10. Health and Safety Code §11350 provides at subdivision “a” as follows:

10 (a) Except as otherwise provided in this subdivision, every person who possesses
11 (1) any controlled substance specified in subdivision (b) or (c) paragraph (1) of subdivision (f) of
12 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) Section 11054, or
13 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
14 11056, or (2) any written prescription of a physician, dentist, podiatrist, or veterinarian licensed
15 to practice in this state, shall be punished by imprisonment in the state prison.

16 11. California Code of Regulations, title 16, section 1444, states, in pertinent
17 part: “ A conviction or act shall be considered to be substantially related to the qualifications,
18 functions or duties of a registered nurse if to a substantial degree it evidences the present or
19 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
20 safety, or welfare. . . .”

21 12. Section 125.3 of the Code provides, in pertinent part, that the Board may
22 request the administrative law judge to direct a licensee found to have committed a violation or
23 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
24 and enforcement of the case.

25 CONTROLLED SUBSTANCES

26 13. Hydrocodone is a narcotic pain reliever marketed under a number of brand
27 names (e.g. “Vicodin”), is a Schedule II controlled substance as designated by Health and Safety
28 Code section 11055, subdivision (b)(1)(J) and is categorized as a “dangerous drug” pursuant to

1 Business and Professions Code section 4022.

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Conviction of a Substantially-Related Crime)**

4 14. Respondent is subject to disciplinary action under section 490, and section
5 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444,
6 in that Respondent has been convicted of crimes substantially related to the qualifications,
7 functions or duties of a registered nurse as follows:

8 **FELONY POSSESSION OF CONTROLLED SUBSTANCE (2006)**

9 A. On or about November 13, 2006, Respondent entered a plea of nolo
10 contendere to violating one count of Health and Safety Code section 113550, subdivision (a)
11 (possession of a controlled substance; felony) in the Superior Court of California, County of
12 Santa Barbara, entitled *People v. Leslie Gerthoffer*, Case No. 1211559

13 B. The circumstances surrounding this conviction's are that Respondent
14 forged (and then filled) at least 23 prescriptions during approximately three months in 2006¹,
15 and at least 21 prescriptions during a seven month period in 2005. Respondent was employed as
16 a registered nurse at Cottage Hospital at the time the subject acts occurred. All of the
17 prescriptions were for Hydrocodone based prescription drugs. Though initially charged with
18 additional counts for prescription forgery, Respondent was permitted to plead to a lesser charge
19 pursuant to a plea agreement.

20 C. On or about June 1, 2006, at the time of the arrest underlying her 2006
21 conviction, Respondent admitted that she was addicted to Hydrocodone, was using 10 -15 pills a
22 day to avoid going through withdrawal, and that she had been forging prescriptions for
23 Hydrocodone for 2-3 years.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Conviction Involving A Forged Prescription)**

26 15. Respondent is subject to disciplinary action under sections 2761,
27

28 1. Dates were approximately between March 1, 2006 and June 1, 2006.

1 subdivision (a) on the grounds of unprofessional conduct, as defined in Code section 2762,
2 subdivision (c), in that on or about November 13, 2006, Respondent was convicted of a crime
3 stemming from her forging of multiple prescriptions, as more fully set forth in paragraph 14,
4 above.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Conviction Involving Use of Controlled Substance)**

7 17. Respondent is subject to disciplinary action under sections 2761,
8 subdivision (a) on the grounds of unprofessional conduct, as defined in Code section 2762,
9 subdivision (c), in that on or about November 13, 2006, Respondent was convicted of a crime
10 stemming from her forging of multiple prescriptions, as more fully set forth in paragraph 14,
11 above.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Obtaining, Possessing or Self Administering Controlled Substances)**

14 16. Respondent is subject to disciplinary action pursuant to section 2761(a) for
15 unprofessional conduct in violation of section 2762(b) in conjunction with Health and Safety
16 Code section 11173(a) and Health and Safety Code section 11350(a) by reason of the following
17 facts:

18 A. While employed as a registered nurse at Cottage Hospital,
19 Respondent forged (and then filled) at least 23 prescriptions for Hydrocodone in an
20 approximately three month period in 2006, and at least 21 prescriptions for Hydrocodone during
21 a seven month period in 2005. Respondent was convicted for these acts in November 2006. As
22 described more fully in paragraph 14 above, at the time of the arrest underlying her subsequent
23 conviction, Respondent admitted that she was addicted to Hydrocodone, that she was using 10 -
24 15 pills a day to avoid going through withdrawal, and that she had been forging prescriptions for
25 Hydrocodone for 2-3 years.

26 B. By these acts, Respondent obtained and possessed narcotics by use of
27 fraud deceit, misrepresentation or subterfuge or by concealment of material fact in violation of
28 Health and Safety Code section 11173(a).

1 C. By these acts, Respondent obtained and/or possessed narcotics in
2 without a legitimate prescription from an authorized prescriber, in violation of Health and Safety
3 Code section 11350(a) .

4 **FIFTH CAUSE FOR DISCIPLINE**

5 **(Use of Controlled Substance Causing Impairment)**

6 15. Respondent is subject to disciplinary action pursuant to section 2761(a) for
7 unprofessional conduct in violation of section 2762(b), in that Respondent used Hydrocodone to
8 an extent injurious to herself, and/or to the extent that use of the drug impaired her ability to
9 conduct with safety to the public the practice authorized by her license by reason of her
10 commission of acts of dishonesty and criminal misconduct to obtain Hydrocodone for a 2-3 year
11 period (as described in paragraph 14 above); and/or her addiction and habitual consumption of
12 10-15 pills a day to avoid going through withdrawal by June, 2006, per her own admission.

13 **OTHER MATTERS**

14 16. As noted in paragraph 2 above, Respondent was previously disciplined in
15 Board of Registered Nursing Accusation Case No. 2001-165 (Decision effective August 24,
16 2001; copy attached as **Exhibit A**). The misconduct admitted in the 2001 Accusation matter is
17 similar in nature to misconduct charged in the present Accusation in that it involves drug seeking
18 and diversion of narcotic pain medication.

19 In the 2001 Accusation matter, Respondent was disciplined under Business and
20 Professions Code sections 2761(a), and 2762(a), (obtaining or self administrating of controlled
21 substances) in that while on duty as a registered nurse at Santa Barbara Cottage Hospital in Santa
22 Barbara, California :

23 a) Respondent obtained Percocet² on or about May 24, 1998, May 26, 1998, and
24 June 5, 1998, by means of fraud, deceit, misrepresentation or subterfuge, or by concealment of a
25 material fact in violation of Health and Safety Code section 11173(a);

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27
28 2. "Percocet," a brand of oxycodone, is a Schedule II controlled substance as designated by
Health and Safety Code section 11055(b)(1)(N).

1 b) Respondent possessed Percocet on or about May 24, 1998, May 26, 1998, and
2 June 5, 1998, without a written prescription from a licensed prescriber in violation of Health and
3 Safety Code section 11350(a); and

4 c) Respondent self-administered Percocet, without direction to do so by a
5 licensed prescriber.

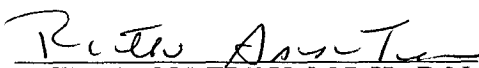
6 Additionally in the 2001 Accusation matter, Respondent was disciplined under
7 Code sections 2761(a) and 2762(e) (false entries in medical records) for falsified, grossly
8 incorrect, grossly inconsistent, or unintelligible entries in hospital entries in hospital, patient, or
9 other records pertaining to controlled substances in five instances involving three different
10 patients. Each error involved records related to the drug Percocet.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Board issue a decision:

- 14 1. Revoking or suspending Registered Nurse License Number 345176, issued
15 to Respondent;
- 16 2. Ordering Respondent to pay the Board the reasonable costs of the
17 investigation and enforcement of this case, pursuant to section 125.3; and
- 18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: 3/23/09

21 
22 RUTH ANN TERRY, M.P.H., R.N.
23 Executive Officer
24 Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

DECISION (2001)
PREVIOUS ACCUSATION

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

LESLIE L. GERTHOFFER AKA LESLIE G. LA
BAR GERTHOFFER AKA LESLIE G. LA BAR

3723 A Amalfi Way
Santa Barbara, CA 93105

Registered Nurse License No. 345176
Respondent.

Case No. 2001-165

OAH No.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on August 24th, 2001.

It is so ORDERED July 25th, 2001.



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 ZAVEN V. SINANIAN, State Bar No. 140076
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
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5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2001-165

12 LESLIE L. GERTHOFFER AKA LESLIE G.
13 LA BAR GERTHOFFER
AKA LESLIE G. LA BAR
14 3723 A Amalfi Way
Santa Barbara, CA 93105

OAH No.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Registered Nurse License No. 345176

16 Respondent.

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18 In the interest of a prompt and speedy settlement of this matter, consistent with
19 the public interest and the responsibility of the Board of Registered Nursing of the Department of
20 Consumer Affairs, ("Board"), the parties hereby agree to the following Stipulated Settlement and
21 Disciplinary Order which will be submitted to the Board for its approval and adoption as the
22 final disposition of the Accusation.

23 **PARTIES**

24 1. Complainant Ruth Ann Terry, M.P.H., R.N. is the Executive Officer of the
25 Board of Registered Nursing. She brought this action solely in her official capacity and is
26 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Zaven
27 V. Sinanian, Deputy Attorney General.

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2. Respondent is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about June 30, 1982, the Board of Registered Nursing issued Registered Nurse License Number 345176 to Leslie L. Gerthoffer aka Leslie G. La Bar Gerthoffer aka Leslie G. La Bar ("Respondent"). The Registered Nurse License was in full force and effect at all times relevant to the charges brought and will expire on January 31, 2002, unless renewed.

JURISDICTION

4. Accusation No. 2001-165, was filed before the Board of Registered Nursing of the Department of Consumer Affairs, ("Board"), and is currently pending against Respondent. The Accusation, together with all other statutorily required documents, was duly served on Respondent on December 28, 2000, and Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2001-165 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and fully understands the nature of the charges and allegations in the Accusation and the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation, the right to be represented by counsel, at her own expense, the right to confront and cross-examine the witnesses against her, the right to present evidence and to testify on her own behalf, the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to reconsideration and court review of an adverse decision, and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent understands that the charges and allegations in the
3 Accusation, if proven at a hearing, constitute cause for imposing discipline upon her Registered
4 Nurse License.

5 9. Respondent admits the truth of each and every charge and allegation in the
6 Accusation No. 2001-165.

7 10. Respondent agrees that her Registered Nurse License is subject to
8 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
9 Order below.

10 CONTINGENCY

11 11. This stipulation shall be subject to the approval of the Board. Respondent
12 understands and agrees that Board of Registered Nursing's staff and counsel for Complainant
13 may communicate directly with the Board regarding this stipulation and settlement, without
14 notice to or participation by Respondent. If the Board fails to adopt this stipulation as its Order,
15 except for this paragraph the Stipulated Settlement and Disciplinary Order shall be of no force or
16 effect, it shall be inadmissible in any legal action between the parties, and the Board shall not be
17 disqualified from further action by having considered this matter.

18 12. The parties agree that facsimile copies of this Stipulated Settlement and
19 Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as
20 the original Stipulated Settlement and Disciplinary Order and signatures.

21 13. In consideration of the foregoing admissions and stipulations, the parties
22 agree that the Board shall, without further notice or formal proceeding, issue and enter the
23 following Disciplinary Order:

24 DISCIPLINARY ORDER

25 **IT IS HEREBY ORDERED** that Registered Nurse License Number 345176
26 issued to Respondent Leslie L. Gerthoffer aka Leslie G. La Bar Gerthoffer aka Leslie G. La Bar
27 is revoked. However, the revocation is stayed and Respondent is placed on probation for three
28 (3) years on the following terms and conditions.

1 14. Each term and condition of probation contained herein is a separate and
2 distinct term and condition. If any term and condition of this Order, or any application thereof, is
3 declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all
4 other applications thereof, shall not be affected. Each term and condition of this Order shall
5 separately be valid and enforceable to the fullest extent permitted by law.

6 During the period of probation, respondent(s) shall:

7 (1) **OBEY ALL LAWS** - Respondent shall obey all federal, state and local laws. A full and
8 detailed account of any and all violations of law shall be reported by the respondent to the Board
9 in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance
10 with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45
11 days of the effective date of the decision, unless previously submitted as part of the licensure
12 application process. Respondent shall submit a recent 2" x 2" photograph of himself or herself
13 within 45 days of the effective date of the final decision.

14 (2) **COMPLY WITH PROBATION PROGRAM** - Respondent shall fully comply with the
15 terms and conditions of the Probation Program established by the Board and cooperate with
16 representatives of the Board in its monitoring and investigation of the respondent's compliance
17 with the Probation Program. Respondent shall inform the Board in writing within no more than
18 15 days of any address change and shall at all times maintain an active, current license status
19 with the Board, including during any period of suspension.

20 (3) **REPORT IN PERSON** - Respondent, during the period of probation, shall appear in person at
21 interviews/ meetings as directed by the Board or its designated representatives.

22 (4) **RESIDENCY OR PRACTICE OUTSIDE OF STATE** - Periods of residency or practice as
23 a registered nurse outside of California will not apply to the reduction of this probationary term.
24 The respondent must provide written notice to the Board within 15 days of any change of residency
25 or practice outside the state.

26 (5) **SUBMIT WRITTEN REPORTS** - Respondent, during the period of probation, shall submit
27 or cause to be submitted such written reports/declarations and verification of actions under penalty
28 of perjury, as required by the Board. These reports/declarations shall contain statements relative to

1 respondent's compliance with all the terms and conditions of the Board's Probation Program.
2 Respondent shall immediately execute all release of information forms as may be required by the
3 Board or its representatives.

4 **PROVIDE DECISION**

5 Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and
6 territory in which he or she has a registered nurse license.

7 **(6) FUNCTION AS A REGISTERED NURSE** - Respondent, during the period of probation,
8 shall engage in the practice of registered nursing in California for a minimum of 24 hours per week
9 for 6 consecutive months or as determined by the Board.

10 For purposes of compliance with the section, "engage in the practice of registered nursing"
11 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
12 non-direct patient care position that requires licensure as a registered nurse.

13 The Board may require that advanced practice nurses engage in advanced practice nursing
14 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

15 If respondent has not complied with this condition during the probationary term, and the
16 respondent has presented sufficient documentation of his or her good faith efforts to comply with
17 this condition, and if no other conditions have been violated, the Board, in its discretion, may grant
18 an extension of the respondent's probation period up to one year without further hearing in order to
19 comply with this condition.

20 **(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS -**

21 Respondent shall obtain prior approval from the Board before commencing any employment, paid
22 or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
23 performance evaluations and other employment related reports as a registered nurse upon request of
24 the Board.

25 Respondent shall provide a copy of this decision to his or her employer and immediate
26 supervisor prior to commencement of any nursing or other health care related employment.

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1 Respondent shall notify the Board in writing within seventy-two (72) hours after he or she
2 obtains any nursing or other health care related employment, when such employment is not as a
3 registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours after
4 he or she is terminated from any registered nursing, other nursing, or other health care related
5 employment with a full explanation of the circumstances surrounding the termination.

6 (8) **SUPERVISION** - Respondent shall obtain prior approval from the Board regarding
7 respondent's level of supervision and/or collaboration before commencing any employment as a
8 registered nurse.

9 Respondent shall practice only under the direct supervision of a registered nurse in good
10 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of
11 supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

12 Respondent's level of supervision and/or collaboration may include, but is not limited to the
13 following:

14 (a) Maximum - The individual providing supervision and/or collaboration is present in the
15 patient care area or in any other work setting at all times.

16 (b) Moderate - The individual providing supervision and/or collaboration is in the patient care
17 unit or in any other work setting at least half the hours respondent works.

18 (c) Minimum - The individual providing supervision and/or collaboration has person-to-person
19 communication with respondent at least twice during each shift worked.

20 (d) Home Health Care - If respondent is approved to work in the home health care setting, the
21 individual providing supervision and/or collaboration shall have person-to-person communication
22 with respondent as required by the Board each work day. Respondent shall maintain telephone or
23 other telecommunication contact with the individual providing supervision and/or collaboration as
24 required by the Board during each work day. The individual providing supervision and/or
25 collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes
26 visited by the respondent with or without respondent present.

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1 (9) **EMPLOYMENT LIMITATIONS** - Respondent shall not work for a nurse's registry, in any
2 private duty position as a registered nurse, a temporary nurse placement agency, or for an in-house
3 nursing pool.

4 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
5 registered nursing supervision and other protections for home visits have been approved by the
6 Board. Respondent shall not work in any other registered nursing occupation where home visits are
7 required.

8 Respondent shall not work in any health care setting as a supervisor of registered nurses.
9 The Board may additionally restrict respondent from supervising licensed vocational nurses and/or
10 unlicensed assistive personnel on a case-by-case basis.

11 Respondent shall not work as a faculty member in an approved school of nursing or as an
12 instructor in a Board approved continuing education program.

13 Respondent shall work only on a regularly assigned, identified and predetermined
14 worksite(s) and shall not work in a float capacity.

15 If the respondent is working or intends to work in excess of 40 hours per week, the Board
16 may request documentation to determine whether there should be restrictions on the hours of work.

17 (10) **COMPLETE A NURSING COURSE(S)** - Respondent, at his or her own expense, shall
18 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
19 than six months prior to the end of his or her probationary term.

20 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
21 Respondent shall submit to the Board the original transcripts or certificates of completion for the
22 above required course(s). The Board shall return the original documents to respondent after
23 photocopying them for its records.

24 (11) **COST RECOVERY** - Respondent shall pay to the Board costs associated with its
25 investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the
26 amount of \$5,431.25. Respondent shall be permitted to pay these costs in a payment plan approved
27 by the Board, with payments to be completed no later than three months prior to the end of the
28 probation term.

1 (12) **VIOLATION OF PROBATION** – If a respondent violates the conditions of his/her
2 probation, the Board after giving the respondent notice and an opportunity to be heard, may set
3 aside the stay order and impose the stayed discipline (revocation/suspension) of the respondent's
4 license.

5 If during the period of probation, an accusation or petition to revoke probation has been
6 filed against respondent's license or the Attorney General's Office has been requested to prepare an
7 accusation or petition to revoke probation against the respondent's license, the probationary period
8 shall automatically be extended and shall not expire until the accusation or petition has been acted
9 upon by the Board. Upon successful completion of probation, the respondent's license will be fully
10 restored.

11 (13) **PHYSICAL EXAMINATION** - Within 45 days of the effective date of this decision,
12 respondent, at his/her expense, shall have a licensed physician, nurse practitioner, or physician
13 assistant, who is approved by the Board before the assessment is performed, submit an
14 assessment of the respondent's physical condition and capability to perform the duties of a
15 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
16 medically determined, a recommended treatment program will be instituted and followed by the
17 respondent with the physician, nurse practitioner, or physician assistant providing written reports
18 to the Board on forms provided by the Board.

19 If respondent is determined to be unable to practice safely as a registered nurse, the
20 licensed physician, nurse practitioner, or physician assistant making this determination shall
21 immediately notify the Probation Program and respondent by telephone and a Petition to Revoke
22 Probation shall be filed. Respondent shall immediately cease practice and shall not resume
23 practice until notified by the Probation Monitor. During this period of suspension, respondent
24 shall not engage in any practice for which a license issued by the Board is required until the
25 Probation Monitor has notified respondent that a medical determination permits respondent to
26 resume practice.

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1 **(14) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR**

2 **CHEMICAL DEPENDENCE** - Respondent, at his/her expense, shall successfully complete
3 during the probationary period or shall have successfully completed prior to commencement of
4 probation a Board-approved treatment/rehabilitation program of at least six months. As required,
5 reports shall be submitted by the program on forms provided by the Board. If respondent has not
6 completed a Board-approved treatment/rehabilitation program prior to commencement of
7 probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in
8 a program. If a program is not successfully completed within the first nine months of probation,
9 the Board shall consider respondent in violation of probation.

10 Based on Probation Program recommendation, each week respondent shall be required to
11 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
12 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
13 by the Board. If a nurse support group is not available, an additional 12 step meeting or
14 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
15 such attendance to the Board during the entire period of probation. Respondent shall continue
16 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
17 mental health examiner and/or other ongoing recovery groups.

18 **(15) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS**

19 Respondent shall completely abstain from the possession, injection or consumption by any route
20 of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered
21 by a health care professional legally authorized to do so and are part of documented medical
22 treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by
23 the prescribing physician or dentist, a report identifying the medication, dosage, the date the
24 medication was prescribed, the respondent's prognosis, the date the medication will no longer be
25 required, and the effect on the recovery plan, if appropriate.

26 Respondent shall identify for the Board a single physician, nurse practitioner or physician
27 assistant who shall be aware of respondent's history of substance abuse and will coordinate and
28 monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-

1 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
2 to the Board on a quarterly basis respondent's compliance with this condition. If any substances
3 considered addictive have been prescribed, the report shall identify a program for the time
4 limited use of any such substances.

5 The Board may require the single coordinating physician, nurse practitioner, or physician
6 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
7 medicine.

8 (16) **SUBMIT TO TESTS AND SAMPLES** - Respondent, at his/her expense, shall
9 participate in a random, biological fluid testing or a drug screening program which the Board
10 approves. The length of time and frequency will be subject to approval by the Board. The
11 respondent is responsible for keeping the Board informed of respondent's current telephone
12 number at all times. Respondent shall also ensure that messages may be left at the telephone
13 number when he/she is not available and ensure that reports are submitted directly by the testing
14 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
15 to the Board by the program and the respondent shall be considered in violation of probation.

16 In addition, respondent, at any time during the period of probation, shall fully cooperate
17 with the Board or any of its representatives, and shall, when requested, submit to such tests and
18 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
19 hypnotics, dangerous drugs, or other controlled substances.

20 If respondent has a positive drug screen for any substance not legally authorized and not
21 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
22 files a petition to revoke probation or an accusation, the Board may suspend respondent from
23 practice pending the final decision on the petition to revoke probation or the accusation.

24 (17) **MENTAL HEALTH EXAMINATION** - The respondent shall, within 45 days of the
25 effective date of this decision, have a mental health examination including psychological testing
26 as appropriate to determine his/her capability to perform the duties of a registered nurse. The
27 examination will be performed by a psychiatrist, psychologist or other licensed mental health
28 practitioner approved by the Board. The examining mental health practitioner will submit a

1 written report of that assessment and recommendations to the Board. All costs are the
2 responsibility of the respondent. Recommendations for treatment, therapy or counseling made as
3 a result of the mental health examination will be instituted and followed by the respondent.


4 If respondent is determined to be unable to practice safely as a registered nurse, the
5 licensed mental health care practitioner making this determination shall immediately notify the
6 Probation Program and respondent by telephone and a Petition to Revoke Probation shall be
7 filed. Respondent shall immediately cease practice and may not resume practice until notified by
8 the Probation Monitor. During this period of suspension, respondent shall not engage in any
9 practice for which a license issued by the Board is required, until the Probation Monitor has
10 notified respondent that a mental health determination permits respondent to resume practice.

11 (18) **THERAPY OR COUNSELING PROGRAM** - Respondent, at his/her expense, shall
12 participate in an on-going counseling program until such time as the Board releases him/her from
13 this requirement and only upon the recommendation of the counselor. Written progress reports
14 from the counselor will be required at various intervals.

15 **ACCEPTANCE**

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and I
17 fully understand the terms and conditions and other matters contained therein, I understand the
18 effect this stipulation will have on my Registered Nurse License. I enter into this Stipulated
19 Settlement voluntarily, knowingly and intelligently and agree to be bound by the Disciplinary
20 Order and Decision of the Board of Registered Nursing. I further agree that a facsimile copy of this
21 Stipulated Settlement and Disciplinary Order, including facsimile copies of signatures, may be used
22 with the same force and effect as the originals.

23 DATED: March 26, 2001.

24 
25 LESLIE L. GERTHOFFER
26 AKA LESLIE G. LA BAR GERTHOFFER
27 AKA LESLIE G. LA BAR
28 Respondent

27 ///

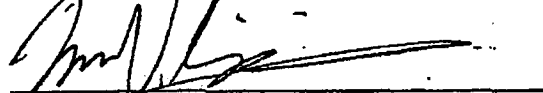
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1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
4 Affairs.

5 DATED: 4/30/01

6 BILL LOCKYER, Attorney General
7 of the State of California

8 

9 ZAVEN V. SINANIAN
Deputy Attorney General

10 Attorneys for Complainant

11 DOJ Docket Number: 03579110-LA2000AD0833
12 Stipulation 11/9/00

13 kk:2-13-01
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Exhibit A:
Accusation Case No. 2001-165

1 BILL LOCKYER, Attorney General
of the State of California
2 ZAVEN V. SINANIAN, State Bar No. 140076
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
Telephone: (213) 897-6015
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2001-165

13 LESLIE L. GERTHOFFER, also known as
14 LESLIE G. LA BAR GERTHOFFER, also known as
15 LESLIE G. LA BAR
3723 A Amalfi Way
Santa Barbara, California 93105

A C C U S A T I O N

16 Registered Nurse License No. 345176

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant"), brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs, State of California.

23 2. On or about June 30, 1982, the Board of Registered Nursing issued
24 Registered Nurse License No. 345176 to Leslie L. Gerthoffer, also known as Leslie G. La Bar
25 Gerthoffer, also known as Leslie G. La Bar ("Respondent"). The license was in full force and
26 effect at all times relevant to the charges brought herein and will expire on January 31, 2002,
27 unless renewed.

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1 FIRST CAUSE FOR DISCIPLINE

2 (False Entries in Hospital Records Re: Controlled Substances)

3 8. Respondent is subject to disciplinary action under Code section 2761(a) on
4 the grounds of unprofessional conduct as defined by section 2762(e), in that while on duty as a
5 registered nurse at Santa Barbara Cottage Hospital in Santa Barbara, California, she falsified, or
6 made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital, patient, or other
7 records pertaining to controlled substances in the following respects:

8 Patient G.R.:

9 a. On or about May 24, 1998, at 1357 hours and 1827 hours,
10 respondent withdrew four (4) tablets of 5 mg. Percocet from the Pyxis system for patient G.R.
11 and failed to chart the administration of, or to otherwise account for, the Percocet.

12 Patient A.W.:

13 b. On or about May 26, 1998, at 0755 hours, 1025 hours, 1241 hours,
14 1325 hours, 1517 hours, and 1909 hours, respondent withdrew four (4) tablets of 5 mg. Percocet
15 from the Pyxis system for patient A.W. and failed to chart the administration of, or to otherwise
16 account for, the Percocet.

17 c. On or about May 26, 1998, at 1837 hours, respondent withdrew
18 six (6) tablets of 5 mg. Percocet from the Pyxis system for patient A.W. and failed to chart the
19 administration of, or to otherwise account for, the Percocet.

20 Patient E.H.:

21 d. On or about June 5, 1998, at 0942 hours, 1202 hours, 1530 hours,
22 1642 hours, and 1746 hours, respondent withdrew four (4) tablets of 5 mg. Percocet from the
23 Pyxis system for patient E.H. and failed to chart the administration of, or to otherwise account
24 for, the Percocet.

25 e. On or about June 5, 1998, at 1434 hours, respondent withdrew
26 six (6) tablets of 5 mg. Percocet from the Pyxis system for patient E.H. and failed to chart the
27 administration of, or to otherwise account for, the Percocet.

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1 3. Taking such other and further action as deemed necessary and proper.

2 DATED: 12/5/00.

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5 
6 RUTH ANN TERRY, M.P.H., R.N.
7 Executive Officer
8 Board of Registered Nursing
9 Department of Consumer Affairs
10 State of California

11 Complainant
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